

1985-1987 Ky. Op. Atty. Gen. 2-122, Ky. OAG 85-116, 1985 WL 193338 (Ky.A.G.)

**\*1 Office of the Attorney General  
Commonwealth of Kentucky**

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August 7, 1985

Mr. Fred B. Creasey  
Executive Director

Dear Mr. Creasey:

Your letter reads as follows:

“A Kentucky Fiscal Court recently passed a motion limiting the number of consecutive terms to two that members of certain boards and commissions in that county may serve. Such boards and commissions are as follows: Airport Board; Library Board; Water Commission; District Board of Health; Planning Commission and Parks and Recreation Board. The motion pertains to only the members of these boards and commissions that are appointed by the county judge/executive by the fiscal court.

“My question is this: 'Can a Fiscal Court legally pass such a motion, limiting the number of consecutive terms a member of these boards and commissions may serve?’”

The answer is simply “no”, except where the fiscal court is expressly given such authority by statute.

Those boards and commissions are shown schematically as follows in terms of whether a fiscal court has authority to limit the number of consecutive terms held by any members of such boards and commissions:

Airport Board ([KRS 183.132](#)) - No authority.

Library Board ([KRS 173.340](#)) - No authority.

[KRS 173.340\(2\)](#) provides that the trustees may serve for two (2) consecutive terms, after which they shall not succeed themselves.

Water Commission ([KRS 74.020](#)) - No authority.

District Board of Health ([KRS 212.855](#)) - No authority.

[KRS 212.855\(4\)](#) provides that no appointed member of a district board of health shall serve more than two (2) consecutive terms of office.

Planning Commission ([KRS 100.133](#)) - No authority.

Parks and Recreation Board ([KRS 97.030](#)) - No authority.

### CONCLUSIONS

(1) The fiscal court's motion limiting the number of consecutive terms to two (2) that members of the boards and commissions mentioned above may serve was illegal, since there is no statutory authority for such action.

(2) The statutes impose a limit on consecutive terms, as relate to a library board and a district board of health. Even though the General Assembly has established no policy limiting the number of consecutive terms for members of the Airport Board, Water Commission, Planning Commission, and Parks and Recreation Board, we find no statutory authority for the fiscal court's enacting such a policy as you mentioned, and as relates to the four bodies not covered by a General Assembly statute. Fiscal courts possess only those powers expressly delegated to them or powers which are implied as being indispensable to enable the fiscal court to carry out its express powers. [Fiscal Court v. City of Louisville, Ky., 559 S.W.2d 478 \(1977\)](#) 482; and [Stansbury v. Maupin, Ky., 599 S.W.2d 170 \(1980\)](#).

(3) [Section 59 of the Kentucky Constitution](#) prohibits the enactment of special law where a general law can be made applicable. It could be argued that, if the General Assembly enacted a statute permitting fiscal courts to enact an ordinance restricting the number of consecutive terms to be held by members of county boards and commissions, it would set the stage for a multiplicity of varying and different ordinance treatment of the subject in the counties of Kentucky relating to the number of consecutive terms to be held by such members. In addition, on the face of it, there appears to be no valid reason or reasons for differentiating the various counties in that regard. In any event, the courts would have to determine that question, if it arises. See [Commonwealth v. Moyers, Ky., 272 S.W.2d 670 \(1954\)](#) 673.

Sincerely,

\*2 David L. Armstrong  
Attorney General

By: Charles W. Runyan  
Assistant Deputy Attorney General

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